

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

HAWAII CHILDREN'S BLOOD AND ) CIVIL NO. 03-00708SOM  
CANCER GROUP, )  
Plaintiff, )  
vs. )  
HAWAII PACIFIC HEALTH, et al., )  
Defendants. )  
\_\_\_\_\_)

TRANSCRIPT OF PROCEEDINGS

The above-entitled matter came on for hearing on  
Friday, June 16, 2006, at 10:30 a.m., at Honolulu, Hawaii,

BEFORE: THE HONORABLE SUSAN OKI MOLLWAY  
United States District Judge

REPORTED BY: STEPHEN B. PLATT, RMR, CRR  
Official U.S. District Court Reporter

APPEARANCES: ARLEEN D. JOUXSON, ESQ.  
RAFAEL G. DEL CASTILLO, ESQ.  
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Attorneys for the Plaintiff

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Attorneys for the Defendants

1 FRIDAY, JUNE 16, 2006 10:25 A.M.

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3 THE CLERK: Civil 03-708SOM-LEK, Hawaii Children's  
4 Blood and Cancer Group versus Hawaii Pacific Health, et al.

5 This case has been called for a status conference.

6 MR. DEL CASTILLO: Good morning, Your Honor.

7 Rafael Del Castillo here with Arleen D. Jouxson, on  
8 behalf of Hawaii Children's Blood and Cancer Group.

9 THE COURT: Good morning.

10 MR. ROBBINS: Good morning, Your Honor.

11 Ken Robbins and Leighton Hara on behalf of the  
12 defendants in this case.

13 THE COURT: Okay, you can be seated.

14 I did get a letter from Mr. Robbins informing me  
15 that the related state court case has had a trial continuance  
16 from June 5 of this year to more than a year -- about a year  
17 and a half later, to October 1 of 2007?

18 Now, the trial in this federal case is set for  
19 October 3rd, 2006, and as you know, I had previously stayed  
20 our case, and I wanted it to trail the state court case. I am  
21 pretty distressed that there's going to be such a long trail.

22 MR. ROBBINS: Well, we are hoping that that will not  
23 be the case. As a matter of fact, the judge and counsel have  
24 agreed that we are going to try to advance the state court  
25 trial date at the meeting again on July 5th, just a couple of

1 weeks, to see if we can advance the date.

2 And Judge Ayabe has said that he plans to bring us  
3 together from time to time to try to move the date forward to  
4 bring it closer to where we are right now, because the  
5 plaintiffs were not happy with moving it back that late, the  
6 defense attorneys were not happy.

7 And the reason why the case was continued is because  
8 the depositions of the expert witnesses on the anti-trust  
9 issue in the state court case were not ready to give their  
10 depositions for reasons we need not get into here. And the  
11 earliest date that we could find that was available to the  
12 court and to counsel was October 7th.

13 But we are hopeful that we will be able to move that  
14 date closer in time to where we are now. In fact, we will be  
15 discussing that on July 5th in chambers with Judge Ayabe. But  
16 October 7th is the outside date, and it will be no later than  
17 that date.

18 MR. DEL CASTILLO: Just a minor correction,  
19 Your Honor, I think it's October 1st, right?

20 MR. ROBBINS: October 3rd, I think.

21 THE COURT: October 1st in state court.

22 Well, let me ask this: I've stayed this case, and I  
23 am committed to not proceeding until the state court matter is  
24 done. So, given that, is there any problem with defendants  
25 entering into an agreement with the plaintiffs that they will

1 not raise statute of limitations issues with respect to the  
2 time period between 2006 and some date we can pick, and  
3 plaintiffs dismissing this case without prejudice so that it's  
4 not even in front of me?

5 If you had such an agreement, I would even give you  
6 an order that you could carry to the Clerk's Office that would  
7 waive the filing fee when you refile, so you won't have that  
8 prejudice.

9 MR. ROBBINS: We would so agree, Your Honor.

10 MR. DEL CASTILLO: I guess we would need --

11 THE COURT: Can I ask you to tilt that mike up a  
12 little bit.

13 MR. DEL CASTILLO: I'm sorry.

14 THE COURT: Thank you.

15 MR. DEL CASTILLO: We would need to speak with our  
16 clients about that, the pros and cons of that, Your Honor.

17 THE COURT: Okay. I don't see the down side for you  
18 folks, if they will waive any limitations arguments that they  
19 might otherwise think they had between the dates of your  
20 dismissal and some date of reinstatement.

21 And you could put in a stipulation that the  
22 reinstatement, if you are going to do it, shall occur say no  
23 later than, let's say, 60 days after entry of judgment in the  
24 state court case, or something like that. And, for one thing,  
25 it would save you folks and me the time and energy of

1 repeatedly having to keep abreast of this other case, but it  
2 would preserve your right to bring it again. And, as I say, I  
3 am happy to include -- I'll give you an order that says the  
4 filing fee need not be paid if you reinstate the same case.

5 MR. DEL CASTILLO: That certainly would help,  
6 Your Honor, because of the costs.

7 THE COURT: You would just carry it to the Clerk's  
8 Office, and they will listen to whatever order I give you, and  
9 they will waive it. You just hand-carry that order with you.  
10 And that's my suggestion.

11 Now, I understand you want to talk to your clients.  
12 How about I get a letter from plaintiff's counsel -- it's okay  
13 with me if you want to wait until after your July 5th status  
14 conference with Judge Ayabe.

15 So I will ask for such a letter by, let's say,  
16 July 12, a week after your July 5th status conference in state  
17 court with Judge Ayabe. Obviously, send a copy of the letter  
18 to Mr. Robbins, and we'll go from there.

19 Mr. Robbins is already on the record as saying he  
20 has no problem with agreeing not to raise the limitations, but  
21 the two of you may want to discuss exactly how you are going  
22 to phrase the time period that would be covered by the waiver.

23 MR. DEL CASTILLO: Sure.

24 THE COURT: I just throw that out, as it could be  
25 from the date of the dismissal until some agreed-upon period

1 from the judgment in the state court case. That seems to me  
2 like a possible way you could do it. And you can come back.

3 MR. DEL CASTILLO: Very good. Very good. July 12  
4 sounds fine. We will have our status conference on the 5th,  
5 and that should give us a better idea of where we stand.

6 THE COURT: Okay. So I am going to leave the trial  
7 date on for October 3rd, 2006, only so as not to clutter up  
8 the calendar with another trial date, hoping that all of it  
9 will be moved. If not, I'll propose another trial date to you  
10 folks, but, in any event, I am committed to not going forward  
11 in this case until the state court case has been resolved. So  
12 if you are, for example, going to get another date on July  
13 5th, you can inform me of that in your letter --

14 MR. DEL CASTILLO: Very good.

15 THE COURT: -- and if that affects how you are going  
16 to handle this or not, that's fine, but I don't see the down  
17 side once with he get that stipulation on limitations issues.

18 MR. DEL CASTILLO: Thank you, Your Honor.

19 THE COURT: Okay.

20 MR. ROBBINS: Thank you, Your Honor.

21 THE COURT: So I will wait to hear from you.

22 THE CLERK: All rise. The court stands in recess.

23 (The hearing in the above-entitled  
24 cause was concluded at 10:32 a.m.)

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I, Stephen B. Platt, Official Court Reporter,  
United States District Court, District of Hawaii, do hereby  
certify that the foregoing is a true and correct transcript of  
proceedings before the Honorable Susan Oki Mollway, United  
States District Judge.

/s/ Stephen B. Platt

MONDAY, JULY 24, 2006

STEPHEN B. PLATT, CSR NO. 248